

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

VIRGIL BUNN,

Plaintiff,

v.

1:17-cv-01064-LF-JFR

SONNY PERDUE,
Secretary, United States
Department of Agriculture,

Defendant.

ORDER STRIKING POST-JUDGMENT FILINGS

THIS MATTER comes before the Court on plaintiff Virgil Bunn's Motion for Rule 17, "Next Friend," filed June 27, 2019. Doc. 61. In this motion, plaintiff requests that a Mr. William A. Rankin, "Pro Se," act as his representative as a "Next Friend" pursuant to "Rule 17." Doc. 61 at 1. Mr. Rankin is not asking to appear before this Court pro se. Rather, Mr. Rankin is requesting to represent Mr. Bunn although he is not licensed to practice law in this Court. The Court, having reviewed the motion and the numerous filings by Mr. Rankin, will DENY his motion and STRIKE the filings Mr. Rankin has made on Mr. Bunn's behalf.

Federal Rule of Civil Procedure 17 allows a representative, such as a guardian, committee conservator, or other fiduciary to sue or defend on behalf of a minor or an incompetent person. FED. R. CIV. P. 17(c)(1). "A minor or incompetent person who does not have a duly appointed representative may sue by a next friend or by a guardian ad litem." FED. R. CIV. P. 17(c)(2). This does not, however, mean that a layperson may act as the lawyer of another person, as Mr. Rankin attempts to do in this case. Rule 17(c) permits authorized representatives, including parents, to sue on behalf of minors, for example, "but does not confer any right upon such representatives to serve as legal counsel." *M.D.F. v. Indep. Sch. Dist. No.*

50 of Osage Cty., Okla., No. 09-CV-548-GKF-PJC, 2010 WL 2326260, at *1 n.1. (N.D. Okla. June 3, 2010) (unpublished). The parent or “next friend” still must be represented by an attorney. *Id.* at *1. “The right to proceed pro se in a civil action in federal court is guaranteed by 28 U.S.C. § 1654. [B]ecause *pro se* means to appear for one’s self, [however,] a person may not appear on another person’s behalf in the other’s cause[;] rather, a person must be litigating an interest personal to him.” *Adams ex rel. D.J.W. v. Astrue*, 659 F.3d 1297, 1299 (10th Cir. 2011). “A litigant may bring his own claims to federal court without counsel, but not the claims of others.” *Fymbo v. State Farm Fire & Cas. Co.*, 213 F.3d 1320, 1321 (10th Cir. 2000).

Here, Mr. Rankin seeks to represent Mr. Bunn, but Mr. Rankin is not licensed to practice law in the District of New Mexico. Indeed, there is no indication that Mr. Rankin is an attorney, licensed to practice law anywhere in the country. Mr. Rankin cannot represent Mr. Bunn in this case without being represented by counsel himself.

Further, Mr. Bunn currently is represented by attorneys Jensen Wallace and Anthony Spratley of the Genus Law Group. “A party who is represented by an attorney may not personally make any filings, other than a notice of appeal, or represent himself or herself unless otherwise ordered.” D.N.M.LR-Civ. 83.5. The attorneys from the Genus Law Group have not withdrawn their representation of Mr. Bunn or entered an appearance on behalf of Mr. Rankin.¹ Under these circumstances, Mr. Bunn cannot proceed pro se, and Mr. Rankin cannot proceed as his representative. Consequently, all of the motions and papers filed by Mr. Bunn and those

¹ If Jensen Wallace and Anthony Spratley wish to withdraw their representation of Mr. Bunn, they need to do so in accordance with D.N.M.LR-Civ. 83.8.

filed by Mr. Rankin on behalf of Mr. Bunn, are improperly filed and will be stricken.

IT IS THEREFORE ORDERED that plaintiff Virgil Bunn's Motion for Rule 17, "Next Friend," filed June 27, 2019, by Mr. Rankin (Doc. 61) is DENIED.

IT IS FURTHER ORDERED that the Motion to Proceed under 28 U.S.C. 1915 (Doc. 57); Affidavit by Virgil Bunn (Doc. 58); Motion to Temporally Accept his Fax Signatures (Doc. 59); Motion to Change Venue (Doc. 60); Motion to Vacate Order on Motion for Summary Judgment (Doc. 62); Brief regarding Motion to Vacate (Doc. 63); and Certificate of Service (Doc. 64) are STRICKEN as improperly filed.


Laura Fashing
United States Magistrate Judge
Presiding by Consent